

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS – BEAUMONT DIVISION**

ISM INDUSTRIES, INC.

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VS.

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**STEARNS, CONRAD AND SCHMIDT,
CONSULTING ENGINEERS, INC. d/b/a
SCS ENERGY, MITCHELL ENERGY
SERVICES, LLC and KILGORE
INDUSTRIAL CIVIL, L.L.C.**

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Case No. 1:18-cv-00584-MAC

DEFENDANT MITCHELL ENERGY SERVICES, LLC's ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant Mitchell Energy Services, LLC (hereinafter referred to as "Mitchell") and files this its Original Answer to Plaintiff's Original Petition and Application for Declaratory Judgment and answers as follows:

1. Amount in Controversy. Mitchell neither admits nor denies the allegations in Paragraph I of Plaintiff's Original Petition as it has insufficient information to adequately answer.
2. Discovery Level. Mitchell denies that discovery should be conducted in accordance with Tex. R. Civ. P. 190.4 because discovery will be controlled by the Federal Rules of Civil Procedure.
3. Parties. Mitchell neither admits nor denies the allegations contained in Paragraph III of Plaintiff's Original Petition regarding Defendants Sterns, Conrad and Schmidt, Consulting Engineers, Inc. d/b/a SCS Energy (hereinafter referred to as "SCS") or Kilgore Industrial Civil, LLC (hereinafter referred to as "Kilgore")

as it has insufficient information to answer. Mitchell admits the allegations made against it in Paragraph III by Plaintiff.

4. Venue. Mitchell neither admits nor denies the allegations contained in the entirety of Paragraph IV and the sub-paragraphs therein as it has insufficient information to adequately answer.
5. Background Facts and Claims. Mitchell neither admits nor denies the allegations contained in the entirety of Paragraph V and the sub-paragraphs therein as it has insufficient information to adequately answer. The allegations in Paragraph V and the sub-paragraphs therein make allegations involving events and negotiations between Plaintiff and SCS that are not within the knowledge of Mitchell. Mitchell admits that it is a subcontractor of Plaintiff for the project that is the basis of the lawsuit. Mitchell admits it has made claims for payment to Plaintiff for work performed and/or services on the project that is the subject of the lawsuit provided pursuant to agreements with Plaintiff.
6. Breach of Contract Against Defendant SCS Energy. Mitchell neither admits nor denies the allegations of breach of contract made against Defendant SCS Energy in Paragraph VI and the sub-paragraphs therein as it has insufficient information to adequately answer.
7. Quantum Meruit/Unjust Enrichment. Mitchell neither admits nor denies the allegations of quantum meruit/unjust enrichment made against Defendant SCS Energy in Paragraph VII and the sub-paragraphs therein as it has insufficient information to adequately answer.

8. Violations of the Texas Prompt Pay Act and Claim for Interest. Mitchell neither admits nor denies the allegations of violations of the Texas Prompt Pay Act and Claim for Interest made against Defendant SCS Energy in Paragraph VIII and the sub-paragraphs therein as it has insufficient information to adequately answer.
9. Declaratory Judgment Act. Mitchell neither admits nor denies the allegations for declaratory made in Paragraph IX and the sub-paragraphs therein as it has insufficient information to adequately answer.
10. Attorneys' Fees, Interest and Costs of Court. Mitchell neither admits nor denies the allegations seeking recovery of attorney's fees, interest and costs of court made against Defendant SCS Energy in Paragraph X of Plaintiff's Original Petition and the sub-paragraphs therein as it has insufficient information to adequately answer.
11. Conditions Satisfied. Mitchell neither admits the allegations contained in Paragraph XI of Plaintiff's Original Petition as it has insufficient information to adequately answer.
12. Notice. The statements made in Paragraph XII of Plaintiff's Original Petition do not require an answer.
13. Rule 194 Requests for Disclosure. Mitchell denies that disclosures are required pursuant to Tex. R. Civ. P. 194 because discovery will be controlled by the Federal Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, Defendant Mitchell Energy Services, LLC prays that Plaintiff take nothing by this suit against it and that Mitchell recover its costs and such other and further relief to which it may be entitled.

Dated: January 8, 2019

Respectfully submitted,

SANDERFORD & CARROLL, P.C.

By: /s/ Brian K. Carroll

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of January 2019, I electronically filed the foregoing document with the UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS – BEAUMONT DIVISION by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

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